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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/714,019

11/14/2003

Chantal Jubinville

SGI-5

1966

22827 7590 02/06/2009

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EXAMINER

RENDON, CHRISTIAN E

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

02/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/714,019	Applicant(s) JUBINVILLE ET AL.	
	Examiner CHRISTIAN E. RENDÓN	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed on 11/21/08 in which applicant has canceled claims 1-52; added claims 53-62; responded to claim rejections. Claims 53-62 are still pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 53-62 are rejected under 35 U.S.C. 102(b) as being anticipated by Muniz (US 2002/0037766 A1).

1. Muniz discloses a lottery game that allows a player to pick extra numbers beyond the typical selection limit (Muniz: par. 45, lines 10-12). In other words, a player playing “pick 6” lottery is allowed to choose a total of 15 numbers, an additional 8 numbers (Muniz: par. 74, lines 2-6).

1. Regarding claims 53 and 58, the art discloses a lottery game thus **defines a set of game indicia corresponding to the total spot entry for the game**. In other words, the number range of possible choices is called the “**total spot entry minus one**” by the application and a player’s lottery numbers are called **N** (Muniz: fig. 5a). In addition, the art teaches **randomly generating supplemental spot entry from the same set of game indicia** consisting of **total spot entry minus N** by allowing a player to choose an additional 8 numbers in a “pick 6” lottery (Muniz: par. 74, lines 2-6). Therefore the **supplemental spot entries are unique and not duplicated spot entries**. The player wins a prize when the **randomly drawn** winning numbers or **subset of indicia equal a certain number of the player spot entries when compared** (Muniz: par 5, lines 4-5). The prize values are based on the odds or **level of correspondence** attributed to selecting the correct numbers, thus the situation associated with the greatest odds offers the largest prize (Muniz: par. 4,

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lines 6-7). Therefore during a game of “pick 6”, the art inherently teaches offering a greater prize for selecting all winning 6 numbers compared to selecting 15 numbers and containing the winning 6 numbers within this set. In other words, selecting extra numbers to win in a lottery game lowers the odds of winning thus lowering the prize values. Furthermore the Examiner views the lesser prize due to extra numbers taught by the art as an equivalent to the applicant's **second prize award based on the combination of the player spot entry and the supplemental spot entry**. Furthermore, the art discloses the lottery as a computer or Internet game and the use of a **terminal device** at a site remote from the lotto site (Muniz: par. 50, lines 13-17) connected to a **host computer 102** running the lotto (Muniz: par. 50, lines 3-4) through a communication network (Muniz: par. 52, lines 12-14).

2. Regarding claims 54-56 and 59-61, the art teaches allowing a player to **select their numbers** (Muniz: fig. 9, 257) or **randomly generate the numbers** (Muniz: fig. 9, 259). In addition, the art teaches selecting the size of the matrix from 9 to 99 (Muniz: par. 106, lines 1-3). The art offers “pick 10” games (Muniz, fig. 9, 255) thus teaching the game that would result when the applicant defines **the total spot entry as 11**. Furthermore, the art offers picking 15 numbers to play “pick 6” game as an example (Muniz: par. 110, lines 9-12) thus the prior art is not limited to a specific number of extra numbers and the applicant's 20 number draw set falls within the scope.

3. Regarding claims 57 and 62, the art teaches providing a smaller award (Muniz: par. 8, lines 14-17) for matching the numbers of a lottery result in jurisdictions other than that of the player (Muniz: par. 8, lines 4-6). Therefore the art teaches awarding a consolation or **third prize** for matching the extra numbers or **supplemental spot entry** in another jurisdiction.

Claims 53-62 are rejected under 35 U.S.C. 102(b) as being anticipated by Muniz further evidence provided by Powerball.

4. The above description of the invention disclosed by Muniz and the limitations they pertain is considered within this art rejection as well. The prior art inherently incorporates Powerball through

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both the drawings (Muniz: fig. 5a) and specification (Muniz: par 47, 85, 87, 93, 106, 124) thus providing another interpretation towards a **supplemental spot** that reads on the applicant's limitations.

5. Regarding claims 53 and 58, the common method of playing the lottery game Powerball is for a player to select five out of 53 numbers and one red ball number from 42 possible choices as the next possible winning number combination. Muniz allows for the selection of the red ball number or Power Ball from the same matrix (Muniz: par. 106, lines 4-8); thus teaching **supplemental spot entries** as **unique and not duplicated spot entries** (Muniz: fig. 9, 265). Besides using large prize amounts as a means to attract players, Powerball also promotes itself as having "9 Ways to Win" transmitting an aura of great odds towards the player. A player is able to win by matching all five selected numbers plus the red number, just the five numbers, four numbers plus the red ball number or even by just matching the red ball number. Since the selection of five number and red number are considered separate games, a player is able to maximize their prize amount by matching everything; \$100,000 for matching the five numbers and a separate or **second prize award** for also matching the red ball number.

6. Regarding claims 54-57 and 59-62, please see above for the rejection of these claims.

Response to Arguments

Applicant's arguments with respect to claims 53-62 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN E. RENDÓN whose telephone number is (571)272-3117. The examiner can normally be reached on 9 - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dimtry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3714

/CHRISTIAN E RENDÓN/
Examiner
Art Unit 3714

CER